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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

LEROUX, ETIENNE PIERRE

ART UNIT PAPER NUMBER

2161

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/819,649

Applicant(s)

NAKAZATO, TOSHIAKI

Examiner

Etienne P LeRoux

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

Claims Status

Claims 15-21 are pending; claims 1-14 have been cancelled. Claims 15-21 are rejected as detailed below.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 15-21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 15 recites “wherein each backed up piece of information is provided with tag information identifying analyzing device and correction information, the correction information being for use in correcting a measurement result in the analyzing unit.” The specification does not contain a clear and concise written description of the process of providing tag information which identifies an analyzing device. Furthermore, the specification does not contain a clear and concise written description of the process of providing tag information which corrects a measurement result. For purposes of this Office Action, “tag information” will be interpreted

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according to the specification, i.e., each backed-up piece of information is equipped with tag information.

Claims 16-21 are rejected for being dependent from a rejected base claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 15-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat No 6,675,166 issued to Bova (hereafter Bova) in view of US Pat No 5,930,791 issued to Leu (hereafter Leu) and further in view of the combination of US Pat No 6,353,878 issued to Dunham (hereafter Dunham) and US Pat No 5,742, 807 issued to Masinter (hereafter Masinter), as best examiner is able to ascertain.

Claim 15:

Bova discloses:

an analyzing unit [specific tissue reagent is related to previous and subsequent research, col 4, lines 40-55] configured to analyze requested item of a measured sample

a first storage device [computer-implemented database (DA), Fig 1, 16, col 4, lines 15-24] configured to hold analysis related information necessary for analyzing said sample

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a database manager [Fig 5, project manager template, col 8, lines 15-20] configured to store inputted analysis related information into said first storage device and to output information from said first storage device

Bova discloses the elements as noted above but is silent regarding a backup recovery processor for backing up all or part of said analysis related information stored in said first storage device into a second storage device other than said first storage device. Leu discloses a backup recovery processor for backing up all or part of said analysis related information stored in said first storage device into a second storage device other than said first storage device [Fig 1, 20, col 4, lines 15-25]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bova to include a backup recovery processor for backing up all or part of said analysis related information stored in said first storage device into a second storage device other than said first storage device as taught by Leu for the purpose of retrieving data [col 4, line 23]. The skilled artisan would have been motivated to improve the invention of Bova by including a backup database such that data can be securely stored in a second/different database. Data can then be retrieved from the second/different database if for some reason the data in the first database is lost or corrupted.

The combination of Bova and Leu discloses the elements as noted above but is silent regarding wherein each backed up piece of information is provided with tag information identifying at least one analyzing device, and correction information. Dunham discloses wherein each backed up piece of information is provided with tag information identifying at least one analyzing device, and correction information [Fig 8, 133, col 16, lines 5-25]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the

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combination of Bova and Leu to include wherein each backed up piece of information is provided with tag information identifying at least one analyzing device, and correction information as taught by Dunham for the purpose of identifying the backup version [col 16, lines 5-25]. The skilled artisan would have been motivated to improve the invention of the combination of Bova and Leu per the above for the purpose of tracking the history of the data in the backup database.

The combination of Bova, Leu and Dunham discloses the elements of claim 15 as noted above. The combination of Bova, Leu and Dunham fails to disclose wherein said backup recovery processor backs up said analysis related information in a plurality of steps by data items of said related information in accordance with a volume of data targeted for backup. Masinter discloses and wherein said backup recovery processor backs up said analysis related information in a plurality of steps by data items of said related information in accordance with a volume of data targeted for backup [Fig 6, col 6, lines 5-19]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Bova, Leu, Dunham to include and wherein said backup recovery processor backs up said analysis related information in a plurality of steps by data items of said related information in accordance with a volume of data targeted for backup as taught by Masinter for the purpose of improving reliability and security of repository access and operation [col 2, lines 31-40].

Claim 16:

The combination of Bova, Leu, Dunham and Masinter discloses the elements of claim 15 as noted above. Furthermore, Bova discloses a data access controller [Fig 5, project manager template, col 8, lines 15-20] for controlling storing said analysis related information into said

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analysis related information database and outputting therefrom in a text-based file format [col 6, lines 35-47] provided with a header [Fig 13, col 10, lines 53-57, col 12, lines 8-13] defining a data item identifier for each data item.

Claim 17:

The combination of Bova, Leu, Dunham and Masinter discloses the elements of claim 15 as noted above. Furthermore, Bova discloses a controller for converting said analysis related information into a file format [col 6, lines 35-47] provided with a header [Fig 13, col 10, lines 53-57, col 12, lines 8-13] defining a data item identifier for each data item when storing said analysis related information into said first storage device. Leu discloses outputting backing up thereof in said second storage device [Fig 1, 20]

Claim 18:

The combination of Bova, Leu and Dunham and Masinter discloses the elements of claim 15 as noted above. Furthermore, Leu discloses a display unit [Fig 1, 22] for displaying a selecting screen for selecting target information to be backed up into said second storage device from information in said first storage device or target information to be restored into said first storage device from information in said second storage device

Claim 19:

The combination of Bova, Leu and Dunham and Masinter discloses the elements of claim 15 as noted above. Furthermore, Leu discloses an online communication unit for connecting said first storage device and said second storage device with online network [Fig 1]

Claims 20 and 21:

Bova discloses wherein said file format is XML format [col 6, lines 35-47].

Response to Arguments

Applicant's arguments filed 6/22/2005 have been fully considered but are not persuasive.

Applicant Argues:

Applicant states in the third paragraph on page 6 "Initially, applicants note independent claim 15 is amended by the present response to clarify the form of each backed up piece of information. Specifically, claim 15 now recites:

wherein each backed up piece of information is provided with tag information identifying analyzing device and correction information, the correction information being for use in correcting a measurement result in the analyzing unit

That claim feature is believed to be clear from the original specification for example at page 11, lines 15-19. Further, that claim feature is believed to clearly distinguish over the applied art.

More particularly, applicants respectfully submit that none of the cited art to Bova, Leu, Dunham or Masinter meets the above-noted limitation of the backed up piece of information."

Examiner Responds:

Examiner is not persuaded. Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

The above limitation is rejected in the Office Action under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The specification does not contain a clear and concise written description of the process of providing tag information which identifies an analyzing device. Furthermore, the specification does not contain a clear and

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concise written description of the process of providing tag information which corrects a measurement result.

Furthermore, in above Office Action, the backed-up piece of information is clearly disclosed by Leu.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Etienne P. LeRoux whose telephone number is (571) 272-4022. The examiner can normally be reached Monday through Friday, 8:00am -4:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on (571) 272-4023. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Etienne LeRoux

07/21/2005



**MOHAMMAD ALI
PRIMARY EXAMINER**